

The Honorable Tana Lin

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

AYUSH HERBS, INC.,

Plaintiff,

v.

MAHITA, LLC, D/B/A PUSHMYCART  
AND NOVA WEB INNOVATIONS PVT.  
LTD.

Defendants.

No. 2:24-cv-00607-TL

**[PROPOSED] FINAL CONSENT  
JUDGMENT AND PERMANENT  
INJUNCTION**

On consent of Plaintiff Ayush Herbs, Inc. (“Plaintiff” or “Ayush Herbs”) and Defendant Mahita, LLC (“Defendant”), having agreed that a Final Judgment By Consent (“Consent Judgment”) and Permanent Injunction should be entered between them and good cause appearing therefor:

**IT IS ORDERED, ADJUDGED AND DECREED:**

1. This case arose under the provisions of the Trademark Act of 1946, 15 U.S.C. § 1051, *et seq.*, particularly under 15 U.S.C. § 1125 and 15 U.S.C. § 1115 and related claims for infringement and contributory infringement of a registered trademark and unfair competition. The Court has subject matter jurisdiction pursuant to 15 U.S.C. § 1121 and 28 U.S.C. §§ 1331, 1338 and 1367(a). The Court further has continuing jurisdiction to enforce the terms and provisions of this Consent Judgment.

2. Defendant affirms that it has reviewed and agrees to this Consent Judgment voluntarily, and that no promise or threat of any kind has been made by Plaintiff, or any officer or employee of Plaintiff, to induce it to consent to entry of this Consent Judgment and Permanent Injunction.

3. Defendant affirms it was represented by legal counsel in connection with the negotiation of this Consent Judgment and Permanent Injunction.

4. Defendant acknowledges service of the Summons and Complaint.

5. Defendant admits that this Court has personal jurisdiction over it.

6. Defendant admits that venue properly lies with this Court.

7. Defendant waives any and all rights to appeal this action.

8. Defendant consents to the continued jurisdiction of this Court for the purpose of enforcing the terms and conditions of this Consent Judgment and Permanent Injunction and for any other purposes relevant to this case.

#### **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

9. Plaintiff Ayush Herbs, Inc. (“Ayush Herbs”) is the owner of U.S. Trademark Registration No. 2,493,772 in International Trademark Class 003 for AYUSH HERBS for “cosmetics, namely, skincare preparations, [ skin lotions, skin creams ] and skin moisturizers; massage oil; replenishing oil, namely, hair conditioners,” as well as in International Trademark Class 005 for “herbal and nutritional supplements; [ medicated candy for alleviating pain and intestinal distress; homeopathic and pharmaceutical preparations, ] natural medicines, and herbal and plant extracts for medical use, all for human and veterinary use for alleviating pain and for treating gastrointestinal problems, joint ailments and stress related nervous disorders.” The AYUSH HERBS Certificate of Registration is attached as Exhibit A.

10. Plaintiff Ayush Herbs is the owner of U.S. Trademark Registration No. 6,762,042 in International Class 003 for AYUSH for “Cosmetics; Hair conditioner; Massage oil; Skin moisturizer; Non-medicated skin care preparations,” as well as in International Class 005 for “Dietary and nutritional supplements; Herbal extracts for medical purposes; Herbal supplements;

1 Plant extracts for medical, veterinary and pharmaceutical purposes.” The AYUSH Certificate of  
2 Registration is attached as Exhibit B.

3 11. The AYUSH HERBS and AYUSH trademarks (collectively the “Ayush Herbs  
4 Trademarks”) are valid and in full force and effect and Ayush Herbs has the exclusive right to use  
5 the registered marks in connection with the goods or services identified in the registration  
6 certificates.

7 12. The AYUSH HERBS trademark has become incontestable pursuant to 15 U.S.C. §  
8 1065.

9 13. Ayush Herbs has used the AYUSH HERBS trademark continuously since at least as  
10 early as November 1990 and has used the AYUSH trademark continuously since at least as early as  
11 1994.

12 14. Defendant Mahita has sold or allowed the sale of products in the United States that  
13 use or display the word or term AYUSH as an element of a mark or product name that Ayush Herbs  
14 alleges infringe the Ayush Herbs Trademarks.

15 15. Ayush Herbs contends that Defendant’s use or display of the word or term AYUSH  
16 as an element of a mark or product name in United States commerce in connection with the sale,  
17 offering for sale, distribution, or advertising of such products is likely to cause confusion, or to  
18 cause mistake, or to deceive, and therefore constitutes trademark infringement and contributory  
19 trademark infringement in violation of 15 U.S.C. § 1114, unfair competition in violation of 15  
20 U.S.C. § 1125(a), and unfair competition against Ayush Herbs in violation of the common law of  
21 the State of Washington.

22 16. On May 2, 2024, Ayush Herbs commenced the above-captioned action (the “Civil  
23 Action”) by filing a Complaint against Defendant.

24 17. Defendant consents to a permanent injunction as set forth below.  
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1           **ACCORDINGLY, IT IS FURTHER ORDERED, ADJUDGED AND DECREED:**

2           18.     The Court expressly determines that there is no just reason for delay in entering this  
3 judgment, and pursuant to Rule 54(b) of the Federal Rules of Civil Procedure, the Court directs  
4 entry of judgment for permanent injunction against Defendant as follows:

5           19.     Defendant Mahita LLC and all affiliated or related entities, agents, officers,  
6 employees, servants, representatives, successors, assigns, and attorneys, and all those in active  
7 concert or participation with any of them, and all other persons acting for, with, by, through, or  
8 under authority from it, are hereby **PERMANENTLY ENJOINED AND RESTRAINED** from:

9                 a.     manufacturing, producing, acquiring, purchasing, importing, receiving,  
10 exporting, distributing, circulating, selling, offering for sale, advertising, or promoting in the United  
11 States any product that bears one or more of the Ayush Herbs Trademarks, any mark confusingly  
12 similar to the Ayush Herbs Trademarks, or any mark that includes the word or term AYUSH as an  
13 element of a mark or product name, in connection with the goods or services identified in the Ayush  
14 Herbs Trademarks' registration certificates or related goods or services;

15                 b.     acting through or forming other entities or associations, or using any other  
16 instrumentalities or devices, for the purpose of circumventing, evading, or avoiding or otherwise  
17 violating the prohibitions referred to in subparagraph (a) above.

18                 c.     directly or indirectly assisting any other individual or entity in engaging in or  
19 performing any of the activities referred to in subparagraph (a) above.

20           20.     In the event Ayush Herbs expressly abandons all trademarks containing the term  
21 AYUSH, including the Ayush Herbs Trademarks, and ceases trademark use in the United States of  
22 all trademarks containing the term AYUSH for a period of three consecutive years, the provisions  
23 of this Consent Judgment barring use by Defendant of the Ayush Herbs Trademarks shall no longer  
24 apply.

25           21.     Except as provided for in the settlement agreement entered into on August 9, 2024,  
26 each party to this Consent Judgment is responsible for its own costs and fees.

22. This Consent Judgment and Permanent Injunction shall be deemed to have been served upon the Defendants at the time of its execution by the Court.

23. This Court retains jurisdiction over the parties and the subject matter for the purposes of enforcing this Consent Judgment and Permanent Injunction and the Settlement Agreement between the Parties relating to this Civil Action.

24. This case is now closed as to Mahita LLC.

**APPROVED OF AS TO FORM:**

Dated this 21st day of October 2024.

  
UNITED STATES DISTRICT JUDGE

**CONSENTED TO BY THE PARTIES:**

Dated: October 17, 2024

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Dated: October 17, 2024

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